

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
TAY-HOLBROOK, INC.)

Appearances:

For Appellant: A. W. Helvern

For Respondent: A. A. Manship, Assistant Franchise Tax
Commissioner

O P I N I O N

This is an appeal under Section 25 of the Bank and Corporation Franchise Tax Act (Chap. 13, Stats. 1929) from the action of the Franchise Tax Commissioner in refusing to arrange for a refund to Tay-Holbrook, Inc., of the sum of \$108.93, representing a tax calculated under said act against the income of said corporation from tax exempt sources.

The Commissioner has objected that the appeal is not in conformity with the provisions of Section 25 of the Act for the reason that the taxpayer voluntarily made a return including this income as taxable and paid its tax accordingly. It is stated that the action of the Commissioner concerning which complaint is made does not amount to the proposed assessment of the additional tax under Section 25 but to a refusal to arrange for a refund under Section 27 of an amount paid voluntarily,

For the reasons set forth in our opinion in the case of Vortex Manufacturing Company (filed August 4, 1930), we feel that we should sustain the action of the Commissioner in any event. Therefore, it does not appear to be necessary for us to pass upon the question of the validity of the appeal raised because of the voluntary payment of the tax by the Appellant. On authority of our decision in the Vortex appeal we believe that we must sustain the action of the Commissioner.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the action of Reynold E. Blight, Franchise Tax Commissioner, in overruling the protest of Tay-Holbrook, Inc., a corporation, against the refusal of said Commissioner to arrange for a refund to said corporation of the sum of \$108.93, under Chapter 13, Statutes of

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1929, be and the same is hereby sustained.

Done at Sacramento, California, this' 4th day of August,
1930, by the State Board of Equalization.

R. E. Collins, Chairman
H. G. Cattell, Member
Fred E. Stewart, Member
Jno. C. Corbett, Member

ATTEST: Dixwell L. Pierce, Secretary